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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,019	03/23/2004	George G. Pappas	LUM 203	5700
2555	7590	11/15/2004	EXAMINER	
KREMBLAS, FOSTER, PHILLIPS & POLLOCK 7632 SLATE RIDGE BOULEVARD REYNOLDSBURG, OH 43068			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/808,019

Applicant(s)

PAPPAS ET AL.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040323.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, 8, 10-13, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumm (US 3,706,523). Kumm is considered to disclose the claimed invention comprising:

a central, axial core **30** of candle fuel;

a wick **32**, extending axially within the central core; and

a plurality of stacked rings **36**, **38**, & **40** having an opening, for receipt of the central core, said rings being disposed around the central core. Kumm is also considered to disclose differing ring compositions (column 3 line 63), differing ring coloring agent compositions (column 3 line 21), non-flammable rings (the disclosed compositions are considered non-flammable as claimed and specified by the applicants), lower core melting point from the rings (implicitly disclosed that plastic or metal have lower melting points than the claimed candle fuel core), circular cylindrical ring periphery (column 4 line 37), ring opening diameter substantially equal to an outside diameter of the central core for mating, slidable engagement with the core (column 4 line 22), selected distance above an upper-most stacked ring core extension (see figure 5B), radially formed base bottom flange core extension (see figure 6A), non-

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flammable solid base **34**, and ring periphery substantially in conformity with the periphery of the base (see figure 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumm in view of Kapinski (US 6,551,099). Kumm is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed differing fragrances. Kapinski, another candle, is considered to disclose differing fragrances at column 2 lines 58-60. It would have been obvious to one skilled in the art to combine the teachings of Kumm with the differing fragrances, considered disclosed by Kapinski for the purpose of providing several fragrances from just one candle.

Claims 7, 9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumm in view of Hardy (US 6,065,960). Kumm is considered to disclose the

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claimed invention, as discussed above under the anticipatory rejection, except for the claimed mating surface contours engaging end rings, including recessed cavity matingly engagable and square cylindrical ring periphery. Hardy, another candle device, is considered to disclose mating surface contours engaging end rings, including recessed cavity matingly engagable and square cylindrical ring periphery at column 2 lines 42-61 and shown in figure 1 respectively. It would have been obvious to one skilled in the art to combine the teachings of Kumm with the mating surface contours engaging end rings, including recessed cavity matingly engagable and square cylindrical ring periphery, considered disclosed by Hardy for the purpose of mixing and matching varying layers for different, unique, and pleasing ornamental effects.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumm. Kumm is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed wax candle base. The Office takes Official Notice of the wax candle base feature because to one skilled in the art, it would have been obvious to provide a wax candle base, since most candles are made of wax including a candle base.

### ***Conclusion***

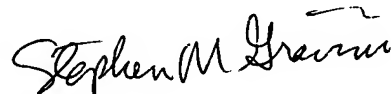
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References D-H, cited in this action, are considered to disclose candles with stage ring features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg  
November 5, 2004

A handwritten signature in black ink, reading "Stephen M. Gravini". The signature is written in a cursive style with a horizontal line above the name.